

## § 168.70

## 40 CFR Ch. I (7–1–13 Edition)

(1) A pesticide product of composition, packaging and labeling as described in its registration under FIFRA section 3;

(2) A pesticide product that has been modified in compliance with the notification or non-notification provisions of §152.46 of this chapter, and any associated procedures issued under §156.10(e) of this chapter, regardless of whether such modification has been made for the pesticide product's registration under FIFRA section 3;

(3) A pesticide product initially registered by a State under FIFRA section 24(c), and whose Federal registration has not been disapproved by EPA under §162.164 of this chapter.

(c) The text of the labeling of the export pesticide product must be provided in English and, if applicable, the following foreign languages:

(1) The predominant or official language of the country of final destination, if known; and

(2) The predominant or official language of the importing country.

[78 FR 4077, Jan. 18, 2013]

### § 168.70 Unregistered export pesticide products.

(a) Any export pesticide product that does not meet the terms of §168.69 is an unregistered export pesticide product for purposes of this subpart.

(b) Each unregistered export pesticide product must bear labeling that complies with all requirements of this section and §168.66(b).

(1) The labeling must comply with all of the prominence and legibility requirements of §156.10(a)(2) of this chapter.

(2) The labeling must comply with all the language requirements in §§168.69(c) and 156.10(a)(3) of this chapter.

(3) The labeling must bear the following information:

(i) The name and address of the producer, in accordance with the requirements of §156.10(c) of this chapter;

(ii) The net weight or measure of contents, in accordance with the requirements of §156.10(d) of this chapter;

(iii) The pesticide producing establishment number, in accordance with the requirements of §156.10(f) of this chapter;

(iv) An ingredients statement, in accordance with the requirements of §156.10(g) of this chapter, except that:

(A) The ingredients statement need not appear in a second language besides English if English is the official or predominant language in the importing country and the country of final destination, if known; and

(B) An export pesticide product intended solely for research and development purposes, (and which bears the statement "For research and development purposes only. Not for distribution, sale, or use," or similar language) may bear coded ingredient information to protect confidentiality.

(v) Human hazard and precautionary statements in accordance with the requirements of subpart D of part 156 of this chapter. The statements must be true and accurate translations of the English statements.

(vi) The statement "Not Registered for Use in the United States of America," which may be amplified by additional statements accurately describing the reason(s) why the export pesticide product is not registered in the United States, or is not registered for particular uses in the United States.

(c) This section also applies to all unregistered pesticide products and devices that are intended solely for export and that are transferred, distributed, or sold between registered establishments operated by the same producer according to §152.30(a) of this chapter if:

(1) The transfer, distribution or sale occurs between a point in the United States and a point outside the United States, or

(2) The transfer occurs within the United States solely for the purpose of export from the United States.

[78 FR 4077, Jan. 18, 2013]

### § 168.71 Export pesticide devices.

(a) Each export pesticide device sold or distributed anywhere in the United States must bear labeling that complies with all requirements of this section and §168.66(b).

(b) The labeling of each export pesticide device must meet all of the prominence and legibility requirements of §156.10(a)(2) of this chapter.

(c) The labeling must also comply with all the language requirements in § 168.69(c) and § 156.10(a)(3) of this chapter.

(d) The labeling must bear the following information:

(1) The name and address of the producer, meeting the requirements of § 156.10(c) of this chapter;

(2) The producing establishment number, meeting the requirements of § 156.10(f) of this chapter;

(3) The statement "Not Registered for Use in the United States of America," which may be amplified by additional statements describing the reason why the export pesticide device is not registered in the United States, such as "because pesticide devices are not required to be registered in the United States."

(e) An export pesticide device is not required to bear an ingredients statement.

[78 FR 4077, Jan. 18, 2013]

**§ 168.75 Procedures for exporting unregistered pesticides—purchaser acknowledgement statements.**

This section describes how EPA interprets and will enforce requirements of FIFRA section 17(a)(2). Section 17(a)(2) provides that any person exporting a pesticide other than a pesticide registered for use under FIFRA section 3 or sold under FIFRA section 6(a)(1), shall obtain a statement signed by the foreign purchaser prior to export, acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States. Section 17(a)(2) requires that a copy of the statement be transmitted to an appropriate official of the government of the importing country.

(a) *Products subject to the requirement.* EPA will not consider an exporter of an unregistered pesticide to be in violation of FIFRA section 17(a)(2) if, prior to export of the pesticide, the exporter submits to EPA a statement signed by the foreign purchaser which affirms that the purchaser is aware that the pesticide is not registered for use in the United States and cannot be sold for use in the United States. The exporter must also include with the submission of the purchaser acknowledge-

ment statement to EPA, a certification signed by the exporter affirming that the export did not occur until the statement signed by the foreign purchaser was obtained by the exporter. Except as provided in paragraph (b) of this section, all pesticide products produced for export which cannot be sold for use in the United States in the form that they are produced for export, are considered to be unregistered pesticides. This includes pesticides which are of a different formulation, including composition (except for variation within certified limits), or type of formulation, and pesticides which are packaged for use patterns for which they are not registered, which may be evidenced by package type or label use statements. This also includes unregistered products which are under development as pesticidal products and which are being exported for research testing.

(b) *Exceptions.* Under the specific circumstances discussed below, EPA will not treat a registered product which has been modified slightly for export purposes, as unregistered for the purposes of the purchaser acknowledgement statement requirement. Any changes to the registered product for export purposes must be documented in accordance with the record-keeping requirements at § 169.2 of this chapter and this policy.

(1) *Labeling on immediate product.* EPA will not treat as unregistered for the purposes of section 17(a)(2), a registered pesticide product which cannot be sold or distributed for use in the United States because its immediate product container does not bear a label approved under a FIFRA section 3 registration, but which could be sold or distributed in the United States with the approved label attached to the immediate product container, provided that the label and labeling approved under a current FIFRA section 3 registration for the product is either attached to the immediate product container or accompanies the product at all times as supplemental labeling as provided in paragraph (c) of this section.

(2) *Packaging.* (i) Certain changes may be made to a product's labeling or